

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:03 CR 22-3

**UNITED STATES OF AMERICA,**

v.

**OWEN MITCHELL SMITH, JR.,**

**Defendant.**

**ORDER**

**THIS MATTER** is before the Court on Defendant Owen Mitchell Smith, Jr.’s (“Defendant”) Motion to Modify Sentence, (file doc. 70), filed on February 6, 2006.

Defendant entered a guilty plea on March 12, 2003, to one count of conspiracy to commit an offense against the United States and one count of counterfeiting obligations or securities of the United States and aiding and abetting the same. On August 11, 2003, a Judgment was entered, sentencing Defendant to fifteen (15) months imprisonment. Defendant was released on February 11, 2004, and never reported to the United States Probation Office, a requirement of his supervised release. Subsequently, on February 10, 2006, a Judgment was entered against Defendant for one count of failure to report to Probation Officer as directed, and he was given a sentence of nine (9) months imprisonment.

Defendant now seeks to have this sentence modified by a recommendation to the Bureau of Prisons that he be designated to either the McLeod or Gastonia community correctional centers for the remainder of his sentence. Defense counsel has informed the Court that the Government opposes this request.

The Court is not inclined to grant this request because after a full hearing on the issue of sentencing, the Court has imposed a sentence. Further, Defendant states in his Motion that “the

Court did not opine on the request of defense counsel that the Court recommend that the Bureau of Prisons designate Mr. Smith for placement at a community correctional center.” (Def.’s Mot. ¶ 8.) A special recommendation such as the one requested should have been dealt with at the sentencing hearing. The Court did not see fit to make this recommendation at the time of sentencing, and the current Motion presented no information which would persuade the Court to modify the sentence at this time.

**IT IS THEREFORE ORDERED** that Defendant’s Motion to Modify Sentence is hereby **DENIED**.

Signed: March 6, 2006



Richard L. Voorhees  
Chief United States District Judge

